

### **REMARKS**

Applicant respectfully requests consideration of the subject application as amended herein. This Amendment is submitted in response to the Office Action mailed April 12, 2005. Claims 1-4, 7-10, 13 and 14 stand rejected. In this Amendment, claims 1, 2, 4-8, 10-13 and 15-16 have been amended. No new matter has been added.

The Examiner has objected to claim 2 for minor informalities. Claim 2 has been amended accordingly.

Claims 1-4, 7-10, 13 and 14 are rejected under 35 U.S.C. §102(e) as being anticipated by Sugar, (U.S. Patent Application No. 2002/0061031, hereinafter "Sugar"). Applicant does not admit that Sugar is prior art and reserves the right to swear behind these references at a later date. Regardless, Applicant respectfully submits that the pending claims are patentable over the above reference.

Sugar discloses a method for interference mitigation among multiple WLAN protocols. Sugar uses a multiple protocol communication device (MPD) that functions as a Bluetooth master to exchange data with other slave terminals. The MPD has at least 5 packets in the queue to be transmitted to a slave terminal, allowing the MPD to use 5-slot packets to achieve the highest throughput efficiency. If less than 5 packets are available, the MPD transmits single or triple-slot packets. Hence, Sugar has specific packets in the queue that are transmitted to a slave terminal.

The presently claimed invention, in contrast, determines a number of time-slots available for transmission, identifies a plurality of data packets that fit into the available time-slots, and then selects a data packet to transmit a portion of data identified for transmission in accordance with characteristics of the transmission. Sugar does not teach

or suggest the above features of the present invention that are included in the language of independent claims 1, 7 and 13. Therefore, the present invention as claimed in claims 1, 7 and 13, and their corresponding dependent claims, is not anticipated by Sugar.

Applicant respectfully requests the withdrawal of the rejection under 35 U.S.C. § 102(e) and submits that the pending claims are in condition for allowance.

**Allowable Subject Matter**

Applicant thanks the Examiner for indicating that claims 5-6, 11-12, 15 and 16 contain allowable subject matter if rewritten in independent form to include all the limitations of the base claim and any intervening claims. Claims 5-6, 11-12, 15 and 16 have been so amended. In view of these amendments, Applicant respectfully submits that claims 5-6, 11-12, 15 and 16 are now in condition for allowance, and request allowance of said claims.

**Deposit Account Authorization**

Authorization is hereby given to charge our Deposit Account No. 02-2666 for any charges that may be due. Furthermore, if an extension is required, then Applicant hereby requests such extension.

If the Examiner determines the prompt allowance of these claims could be facilitated by a telephone conference, the Examiner is invited to contact Marina Portnova at (408) 720-8300.

Respectfully submitted,

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